

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JACOB SUPERCHI,

Plaintiff,

v.

DOLLAR TREE STORES INC, a
Virginia corporation; and DOLLAR
TREE DISTRIBUTION, INC., a Virginia
corporation,

Defendants.

CASE NO. C12-5771 BHS

ORDER GRANTING MOTION
TO REMAND

This matter comes before the Court on Plaintiff James Superchi's ("Superchi") motion to remand (Dkt. 10). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby grants the motion for the reasons stated herein.

I. PROCEDURAL HISTORY

On May 29, 2012, Superchi filed a complaint against Defendants Dollar Tree Stores, Inc. and Dollar Tree Distribution, Inc. ("Dollar Tree") in Clark County Superior

1 Court for the State of Washington asserting only state law causes of action. Dkt. 1, Exh.
2 A.

3 On September 24, 2012, Superchi filed a motion to remand. Dkt. 10. On October
4 12, 2012, Dollar Tree responded. Dkt. 14. Superchi did not reply.

5 II. DISCUSSION

6 The only issue before the Court is whether the Court may consider an amount of
7 reasonable attorney's fees in the calculation of the jurisdictional minimum. A removing
8 defendant must "prove by a preponderance of the evidence" that the jurisdictional
9 minimum amount in controversy has been met. *Lowdermilk v. U.S. Bank. Nat'l Ass'n*,
10 479 F.3d 994, 998 (9th Cir. 2007) (quoting *Abrego Abrego v. The Dow Chemical Co.*,
11 443 F.3d 676, 683 (9th Cir. 2006)). Where a plaintiff has not instituted suit in federal
12 court, "[t]here is a strong presumption that the plaintiff has not claimed a large amount in
13 order to confer jurisdiction on a federal court" *St. Paul Mercury Indem. Co. v. Red*
14 *Cab Co.*, 303 U.S. 283, 290 (1938).

15 In this case, the parties submit differing estimates of the amount of attorney's fees.
16 The Court finds that Superchi's estimate of his counsel's fees is just as reasonable as
17 Dollar Tree's estimate of Superchi's counsel's fees. Therefore, the Court grants
18 Superchi's motion to remand because Dollar Tree has failed to show by a preponderance
19 of the evidence that the amount in controversy exceeds the jurisdictional amount.
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III. ORDER

Therefore, it is hereby **ORDERED** that Superchi's motion to remand (Dkt. 10) is **GRANTED**. The Clerk shall remand this matter to Clark County Superior Court.

Dated this 30th day of October, 2012.



BENJAMIN H. SETTLE
United States District Judge